

## Message Text

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ACTION STR-04

INFO OCT-01 EA-07 ISO-00 FEA-01 AGRE-00 CEA-01 CIAE-00

COME-00 DODE-00 EB-07 FRB-03 H-01 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05

SS-15 ITC-01 TRSE-00 PRS-01 SP-02 OMB-01 NSCE-00

SSO-00 USIE-00 INRE-00 STRE-00 /077 W

-----070810Z 094114 /12

O R 070729Z JUN 77

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC IMMEDIATE 4313

INFO AMEMBASSY TAIPEI

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EO 11652: N/A

TAGS: ETRD KS

SUBJ: ORDERLY MARKETING AGREEMENTS ON FOOTWEAR

REF: (A) STATE 129501, (B) SEOUL 4607

SUMMARY: BASED ON THE INFORMATION ON HAND, THE ROKG SEES NO VAOID REASON FOR ADDING THE PROPOSED NEW MINUTE TO THE ROKG-USG OMA AND HAS SERIOUS RESERVATIONS ABOUT THE WISDOM OF DOING SO. ADDING THE NEW MINUTE, MORE-OVER, WOULD ALMOST CERTAINLY RESULT IN SUBSTANTIAL FURTHER DELAY IN COMPLETING ROKG INTERNAL PROCEDURES. END SUMMARY.

1. REGARDING TH PROPOSAL FOR A NEW AGREED MINUTE NUMBER 5 TO THE USG-ROKG FOOTWEAR OMA AS OUTLINED REF A, WE HAVE DISCUSSED THE MATTER WITH LEE KI-CHOO OF THE MINISTRY OF FOREIGN AFFAIRS (MOFA). MOFA'S REACTION IS ONE OF BAFFLEMENT.

2. LEE ASKED IF WE COULD PROVIDE ANY FURTHER BACKGROUND AS TO WHY WHY ISSUE HAS SURFACED AT THE LAST MOMENT. EVEN WITH SUCH BACKGROUND, HOWEVER, IT IS VERY UNLIKELY ROKG WILL BE ABLE TO  
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AGREE TO THE PROPOSED MINUTE AS IT IS CURRENTLY WORDED.

3. AS MOFA VIEWS IT, THE PROPOSED MINUTE, RATHER THAN GIVING THE ROKG SOME ADDITIONAL ADVANTAGE AS SUGGESTED IN REF A, COULD BE CONSTRUED AS LIMITING THE ROKG'S PEROGATIVES UNDER THE EQUITY CLAUSE OF PARAGRAPH 10(B). AS IT IS UNDERSTOOD BY MOFA, PARAGRAPH 10(B) NOT ONLY COMMITS THE USG TO TAKING APPROPRIATE REMEDIAL

MEASURES IN THE EVENT IT IS AGREED THAT A RAPID INCREASE IN U.S. IMPORTS OF FOOTWEAR FROM A THIRD COUNTRY IS DISADVANTAGEOUS TO KOREAN PRODUCERS, BUT ALSO IMPLIES THAT THE ROKG WOULD HAVE SOME RIGHT TO MAKE A JUDGMENT AS TO WHETHER OR NOT THE MEASURES TAKEN WERE, INDEED, APPROPRIATE. IN OTHER WORDS, IF THE ROKG CONSIDERED THE MEASURES TAKEN AS REPRESENTING MORE GENEROUS TREATMENT FOR COUNTRY THAN HAS BEEN AFFORDED THE ROKG, THE ROKG BELIEVES IT WOULD HAVE A BASIS UNDER PARAGRAPH 10(B) TO INSIST THAT THE TREATMENT FOR BOTH COUNTRIES BE EQUITABLE. MOFA IS DEEPLY CONCERNED THAT THE ADDITION OF THE PROPOSED MINUTE NUMBER 5 WITH ITS LANGUAGE STATING THAT QUOTE NOTHING IN THIS AGREEMENT SHALL AFFECT THE UNILATERAL RIGHT OF THE UNITED STATES.....TO TAKE ACTIONS AFFECTING IMPORTS OF NONRUBBER FOOTWEAR FROM COUNTRIES OTHER THAN THE REPUBLIC OF KOREA, QUOTE, COULD BE CONSTRUED AS MEANING THAT THE ROKG HAS FORFEITED THE RIGHT TO IN ANY WAY QUESTION WHATEVER UNILATERAL ACTIONS THE USG TAKES WITH RESPECT TO IMPORTS OF FOOTWEAR FROM THIRD COUNTRIES AND, THEREFORE, WOULD HAVE NO BASIS FOR QUESTIONING WHETHER OR NOT SUCH ACTION WAS EQUITABLE WITH THAT AFFORDED THE ROKG.

4. LEE, ON THE OTHER HAND, COULD NOT SEE HOW ANYONE COULD CONSIDER PARAGRAPH 10(B), WITHOUT THE PROPOSED MINUTE NUMBER 5, AS IN ANY WAY LIMITING THE USG'S RIGHT TO TAKE UNILATERAL MEASURES AGAINST IMPORTS FROM THIRD COUNTRIES WITHOUT PRIOR CONSULTATIONS WITH, OR PRIOR AGREEMENT FROM, THE ROKG, IF IT CHOOSES TO DO SO. THE WHOLE INTENT RATHER IS TO GIVE THE ROKG A BASIS FOR INSISTING THAT SUCH ACTION BE TAKEN, UNDER CERTAIN CIRCUMSTANCES, IF THE USG FAILS TO ACT ON ITS OWN INITIATIVE AND TO GIVE THE ROKG SOME RECOURSE FOR DEMANDING THAT SUCH MEASURES BE OF A NATURE THAT LIMITED OFFICIAL USE

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THE ROKG IS ACCORDED EQUITABLE TREATMENT UNDER THOSE CIRCUMSTANCES. LEE POINTED OUT THAT THE USG-ROKG TEXTILE AGREEMENT CONTAINS A ROUGHLY SIMILAR EQUITY CLAUSE (ARTICLE 13). THE USG HAS NEVER BOTHERED TO OBTAIN THE ROKG'S AGREEMENT BEFORE NEGOTIATING BILATERAL TEXTILE AGREEMENTS WITH THIRD COUNTRIES AND THE ROKG HAS NEVER CONSIDERED THAT IT HAS ANY RIGHT TO ASK THE USG TO DO SO.

5. BASED ON THE INFORMATION ON HAND, LEE SAID MOFA COULD SEE NO VALID REASON FOR ADDING THE PROPOSED MINUTE NUMBER 5 AND IT HAS VERY SERIOUS RESERVATIONS ABOUT THE WISDOM, FROM THE ROKG POINT OF VIEW, OF DOING SO.

6. CONCERNING THE COMPLETION OF ROKG INTERNAL PROCEDURES, IT HAS PROVED PHYSICALLY IMPOSSIBLE FOR MOFA TO HAVE THE OMA READY FOR SUBMISSION TO TODAY'S CABINET MEETING. UNTIL THIS MATTER OF ADDING A NEW MINUTE CAME UP, MOFA WAS QUITE CONFIDENT THE OMA WOULD BE READY FOR SUBMISSION TO THE CABINET MEETING SCHEDULED FOR JUNE 10. AS NOTED IN REF B, THE TIME REQUIRED TO OBTAIN THE PRESIDENT'S APPROVAL WILL DEPEND ON THE PRESIDENT'S SCHEDULE, BUT,

BARRING UNFORESEEN CIRCUMSTANCES, MOFA CONSIDERED IT LIKELY THE  
ROKG EMBASSY WOULD BE AUTHORIZED TO PROCEED WITH THE EXCHANGE  
OF NOTES BY ROUGHLY THE MIDDLE OF NEXT WEEK, I.E., ABOUT JUNE 15.  
LEE POINTED OUT, HOWEVER, THAT IF THE USG NOW INSISTS ON ADDING  
A NEW MINUTE TO THE OMA, IN ALL PROBABILITY MOFA WILL HAVE TO  
GO BACK TO SQUARE ONE AND BEGIN THE INTERNAL PROCEDURES OVER AGAIN.  
UNDER THOSE CIRCUMSTANCES, THERE IS NO CHANCE THE ROKG COULD BE  
READY TO EXCHANGE NOTES NEXT WEEK AND THERE IS SERIOUS DOUBT  
WHEHTER THE PROCEDURES COULD EVEN BE COMPLETED IN TIME TO PERMIT  
THE EXCHANGE OF NOTES DURING THE WEEK OF JUNE 20.  
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## Message Attributes

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**Disposition Date:** 22 May 2009  
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**Disposition History:** n/a  
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**Previous Handling Restrictions:** n/a  
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